

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

PNC BANK, N.A. COLUMBIA	§
HOUSING SLP CORPORATION, and	§
2013 TRAVIS OAK CREEK, LP	§
 Plaintiffs,	§
 v.	§
 2013 TRAVIS OAK CREEK GP, LLC,	§
2013 TRAVIS OAK CREEK	§
DEVELOPER, INC.,	§
CHULA INVESTMENTS, LTD.,	§
and RENE O. CAMPOS	§
 Defendants.	§
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 2013 TRAVIS OAK CREEK GP, LLC	§
and 2013 TRAVIS OAK CREEK, LP,	§
 Plaintiffs,	§
 v.	§
 PNC BANK, N.A. and COLUMBIA	§
HOUSING SLP CORPORATION	§
 Defendants.	§

Civil Action No. 1:17-cv-584-RP
(Consolidated with 1:17-cv-560-RP)

MOTION TO CONSOLIDATE

2013 Travis Oak Creek GP, LLC, 2013 Travis Oak Creek Developer, Inc., Chula Investments, Ltd., and Rene O. Campos (collectively “Movants”) file this Motion to Consolidate, and respectfully show as follows:

1. On November 14, 2017, Plaintiff PNC Bank, N.A. filed a state court action against Rene O. Campos, 2013 Travis Oak Creek Developer, Inc., Chula Investments, Ltd., and Eureka Multifamily Group, L.P. as Cause No. D-1-GN-17-006241 in the District Court of Travis County, styled *PNC Bank, N.A. v. Rene O. Campos; 2013 Travis Oak Creek Developer, Inc.; Chula Investments, Ltd.; and Eureka Multifamily Group, L.P.* (the “State Court Action”). On November 14, 2017, Movants and Eureka Multifamily Group, L.P., who are all of the Defendants in the State Court Action, filed a Notice of Removal that removed the State Court Action from the 201st District Court of Travis County, Texas, to this Court, where it is now pending as Civil Action No. 1:17-CV-01081, before Judge Pitman.

2. Civil Action No. 1:17-cv-01081 involves the same and/or a substantial overlap in relevant subject matters and transactions that are the subject of this case, and all of the parties to Civil Action No. 1:17-cv-01081 (except for Eureka Multifamily Group, LP) already are parties to this case.

3. In that this action and Civil Action No. 1:17-cv-01081 involve common questions of law or fact, pursuant to Rule 42(a), F. R. Civ. P., Movants request that the Court order the actions consolidated for all purposes. *E.g., McDaniel v. Anheuser-Busch, Inc.*, 987 F.2d 298, 304 n. 19 (5th Cir. 1993). The Court may order consolidation of actions *sua sponte* even if there is objection. *See, e.g., Devlin v. Transportation Comms. Intl. Un.*, 175 F.3d 121, 130 (2d Cir. 1999); *Cantrall v. GAF Corp.*, 999 F.2d 1007, 1011 (6th Cir. 1993).

4. The benefits of consolidation of these two cases outweigh any conceivable burdens, indeed there cannot be any burdens given that the parties already are litigating a case involving common issues of law and fact, and there is no risk of confusion of the issues or inconvenience. Consolidation will ensure consistent adjudication of the issues, will lessen burden in that

witnesses will need to be deposed and called in one proceeding, and judicial resources will be conserved. Consolidation will further ensure that litigation between the same parties will be less expensive and less time consuming than if the cases are litigated or tried separately.

WHEREFORE, Movants 2013 Travis Oak Creek GP, LLC, 2013 Travis Oak Creek Developer, Inc., Chula Investments, Ltd., and Rene O. Campos pray that Civil Action No. 1:17-cv-01081 be consolidated with this case, and that they be awarded any other relief to which they may be entitled.

Respectfully submitted,

/s/ Kenneth B. Chaiken

Kenneth B. Chaiken
State Bar No. 04057800
kchaiken@chaikenlaw.com
CHAIKEN & CHAIKEN, P.C.
Legacy Town Center III
5801 Tennyson Parkway
Plano, Texas 75024
(214) 265-0250 telephone
(214) 265-1537 facsimile

William S. Rhea
State Bar No. 16807100
brhea@dbc.com
DuBOIS, BRYANT & CAMPBELL, LLP
303 Colorado Street, Suite 2300
Austin, TX 78701
(512) 457-8000
(512) 457-8008 (Facsimile)

Karl S. Stern
State Bar No. 19175665
karlstern@quinnmanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
711 Louisiana Street, Suite 500
Houston, Texas 77002
(713) 221-7000
(713) 221-7100 (Facsimile)

ATTORNEYS FOR MOVANTS

CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with Robert Hoffman, counsel for PNC Bank, National Association in this action, and Jon Shepherd, counsel for PNC Bank in Civil Action No. 1:17-cv-01081, and both have informed me they oppose this motion and the requested consolidation.

/s/ Kenneth B. Chaiken _____

Kenneth B. Chaiken

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on all counsel of record via the Court's electronic filing system on this 17th day of November, 2017.

/s/ Kenneth B. Chaiken _____

Kenneth B. Chaiken